



CONNECTICUT ASSOCIATION OF
REALTORS® INC.

**Statement on
SB 971 (Raised) An Act Concerning a Modern Method of Foreclosure
SUPPORT**

Submitted to the Banks Committee
March 5, 2013

By Eugene A. Marconi, General Counsel
Connecticut Association of REALTORS®, Inc

Good evening Senator Leone, Representative Tong and members of the committee. My name is Eugene Marconi and I am the General Counsel for the Connecticut Association of REALTORS®. I have the privilege of speaking on behalf of the 15,000 members of the Association in support of SB 971 (Raised) An Act Concerning a Modern Method of Foreclosure.

The bill seeks to add an item to the menu of foreclosure options: a foreclosure by market sale. The current foreclosure by sale procedure has changed little in over a century. This process does not and will not produce market value sales as it severely restricts the universe of buyers qualified to participate extremely limited inspection periods (typically an hour or two before the auction) and refusal to recognize or allow usual and customary contingencies for home inspection, lead paint inspection and financing. This process effectively shuts out purchasers who require financing or simply do not have the money to risk on a property that they cannot adequately inspect in order to apprise themselves of the risks of ownership.

The strict foreclosure process has led to unfortunate consequences when lenders are unequipped to manage foreclosed properties. These properties often sit empty for long periods of time while they deteriorate for lack of basic maintenance, serve as a target for vandalism and theft and become a source of adverse comparable sale information that drives down appraisals on surrounding properties. It would certainly serve our towns, cities and the public to have these properties come directly out of the foreclosure process to their ultimate purchasers.

The market sale proposal would permit a mortgagor to present a marketing plan to the court which would require the property to be marketed by a real estate licensee on the open market, and would obligate the mortgagor to present all offers to the court. Offers could contain the usual and customary contingencies for financing and inspections. This would also allow properties to be marketed through multiple listing service systems and their Web partners.

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The Voice for Real Estate™ in Connecticut

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There is nothing unusual or novel in court-approved sales on the open market. Probate courts have been doing them for years. Our courts routinely approve such sales in divorce proceedings. Bankruptcy courts also do the same, and the federal courts use a similar procedure in selling properties subject to forfeiture for criminal activities. A benefit of this bill is that it establishes uniform standards to help guide the courts and encourage broader participation by real estate professionals. It leverages Connecticut's judicial foreclosure process and its 20,000 real estate licensees to move these properties at something that much more nearly approximates their market value.

We would make two suggestions to the bill language. First, the wording of the bill should state more clearly that offers may be submitted to the court for approval as soon as they are received. There have been some who have read the current language to mean that offers could only be submitted to the court once the marketing period has expired which I do not believe was the intent. Second, although the bill mentions a 120 day marketing period, the average time on market for a residential property in Connecticut is 150 days, and the Committee may wish to consider that change. Of course, the property may very well sell more quickly.

The current foreclosure auction sale serves no one but well-heeled purchasers who have the wherewithal to purchase for cash and assume unknown risks. It certainly does not benefit mortgagors nor does it benefit mortgagees who more often than not assume ownership of these properties and spend money on asset managers, insurance, upkeep and the cost of disposition. It is time to bring foreclosure sales out of the horse and buggy days and into some semblance of a modern real estate transaction.

Thank you for your time, and I will be happy to answer any of your questions.



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